

DECISION



31988
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-216723

DATE: August 21, 1985

MATTER OF: James Knapp

DIGEST:

1. Where employee shipped an automobile together with his household goods under a Government bill of lading, the formula set forth in paragraph 2-8.2b(5) of the Federal Travel Regulations should not be used to determine his liability for shipment of the automobile unless charges directly attributable to its shipment cannot otherwise be identified and established. Since an automobile is not an item of household goods, it was improperly shipped under the Government bill of lading and procedures for determining an employee's liability for shipping an excess weight of household goods are not applicable to a case in which shipping and special charges attributable to the automobile can be determined.
2. Liability of employee who shipped household goods in excess of the 11,000 pound weight limit is to be determined under paragraph 2-8.2b(5) of the Federal Travel Regulations based on a proration of the excess weight to the total weight of the shipment multiplied by the total charges for the shipment. The employee is not entitled to reduce the excess weight figure by the weight of 3,500 pounds of household goods never unpacked from a prior move and to compute his liability for packing charges separately from his liability for other charges for the total shipment.

This decision deals with the manner in which an employee's liability for shipping excess goods by Government bill of lading is to be determined.^{1/} It addresses the

^{1/} Mr. William D. Stavoren, Acting Assistant Attorney General for Administration, requested our decision.

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employee's argument that packing charges should not be allocated to any of the excess weight attributable to goods already packed or to shipment of an automobile which required no packing. We hold that the employee's liability for shipping the automobile should be based on only those charges directly attributable to its shipment, but that the remaining charges should be prorated and charged to the remaining excess weight. ¶

Mr. James Knapp, an employee of the Department of Justice, moved from Diamond Bar, California, to his first duty station in Washington, D.C., upon his appointment in the Senior Executive Service on December 13, 1982. At that time, the maximum weight of household goods that could be shipped at Government expense was 11,000 pounds. Mr. Knapp shipped his automobile and household goods, a total weight of 21,980 pounds, to Washington on a Government bill of lading.

The Department of Justice sought reimbursement from Mr. Knapp for an \$80 charge related specifically to the shipment of his automobile and for charges allocable to the excess weight of the goods shipped, including the weight of the automobile. It computed the amount of Mr. Knapp's liability in accordance with Federal Travel Regulations, para. 2-8.3b(5) (Supp. 1, September 28, 1981), incorp. by ref., 41 C.F.R. § 101-7.003 (1982). That paragraph states:

"(5) Excess weight procedures. When the weight of an employee's household goods exceeds the maximum weight limitation [11,000 pounds], the total quantity may be shipped on a Government bill of lading, but the employee shall reimburse the Government for the cost of transportation and other charges applicable to the excess weight, computed from the total charges according to the ratio of excess weight to the total weight of the shipment." (Emphasis added.)

Consistent with our interpretation of the above regulation in William L. Brown, et al., B-199780, February 17, 1981, and William A. Schmidt, 61 Comp. Gen. 341 (1982), the agency applied the following formula in determining the amount of Mr. Knapp's liability:

$$\text{Employee liability} = \frac{\text{excess weight} \times \text{total charges}}{\text{total weight}}$$

In applying this formula, the agency included the weight of the automobile in the total weight of the shipment. Since it determined the excess weight on the basis of the total weight minus 11,000 pounds, the weight of the automobile is also a component of the excess weight figure. It computed Mr. Knapp's liability as follows:

$$\begin{aligned} \text{Employee liability} &= \frac{10,980 \text{ lbs.} \times \$9,086.64}{21,980 \text{ lbs.}} \\ &= \$4,539.19 \end{aligned}$$

This calculation results in apportioning packing charges of \$1,993.75 as well as the remaining shipping and accessorial charges to all of the excess weight, including the weight of the automobile.

Mr. Knapp believes that the formula should be applied separately to compute his liability for charges other than packing, and again to compute his indebtedness for packing charges attributable to the excess weight shipped. He explains that his automobile weighing approximately 1,900 pounds did not require any packing and that at least 3,500 pounds of the household goods he shipped had never been unpacked after a previous move. He believes that the weight of these items, 5,400 pounds, should be disregarded in computing this liability for packing costs attributable to the excess weight shipped. He would calculate his liability for packing charges, using a reduced total weight of 16,580 pounds, as follows:

$$\text{Employee liability} = \frac{\text{Excess weight} \times \text{Packing charges expense for packing}}{\text{total weight}}$$

$$\text{Employee liability} = \frac{5,580 \text{ lbs.} \times \$1,993.79}{16,580 \text{ lbs.}}$$

$$\text{Employee liability} = \$671.01 \text{ for packing}$$

The employing agency's calculation, based on the total weight shipped, would result in Mr. Knapp bearing packing charges of \$995.97 attributable to an excess weight of

10,980 pounds. The method proposed by Mr. Knapp would reduce his liability by \$326.78.

Under FTR para. 2-8.3b(5) an employee may ship household goods in excess of the authorized weight on a Government bill of lading subject to the requirement that he bear the costs applicable to that excess weight. As has been noted by the Department of Justice, an automobile is not an item of household goods. It is expressly excluded from the definition of household goods at FTR para. 2-1.4h and an automobile may not be shipped within the continental United States at Government expense. James B. Nickel, B-187233, January 28, 1977. Since FTR para. 2-8.3b(5) only authorizes an employee to ship an excess weight of "household goods" on a Government bill of lading, Mr. Knapp improperly included his automobile with the items shipped. Therefore, identifiable charges attributable to shipment of the automobile should be segregated and charged to the employee before his liability for shipping the excess weight of household goods is determined.

While not controlling in this case, we believe it would be appropriate for the agency to follow the guidance set forth in Joint Travel Regulations, vol. 2, para. M8007, to determine an employee's liability for shipping unauthorized articles. That regulation, applicable to members of the uniformed services, provides as follows:

"1. UNAUTHORIZED ARTICLES. Normally excepted personal articles * * * shall be transported apart from authorized household goods and arrangements for separate transportation of such articles shall be made by the member concerned. When unauthorized articles erroneously or inadvertently included by a member or a shipping officer in a household goods movement are subsequently disclosed, the member shall bear all costs of transportation * * * of such articles to the extent that they can be identified and transportation costs thereof established. In the event the cost of transporting such articles cannot be definitely established, the weight thereof shall be considered excess weight and the cost of transportation computed in accordance with subpar. 2."

When costs cannot be established, these regulations call for cost to be attributed to the excess weight, inclusive of the weight of unauthorized articles, in essentially the same manner as required by FTR para. 2-8.3b(5).

In this particular case, it appears that the costs associated with shipment of the automobile can be identified and established. The Department of Justice has already determined that a special charge of \$80 is attributable to shipment of the automobile. Mr. Knapp has indicated that the actual weight of the automobile can be determined. Under these circumstances his liability for shipment of the automobile can be determined as follows:

$$\begin{aligned} \text{Employee liability} &= \text{Special} + \frac{(\text{auto weight} \times \text{transporta-}}{\text{for automobile} \quad \text{charges} \quad (\text{total weight} \quad \text{tion cost})} \\ &= \$80 + \frac{(\text{auto weight} \times \$6,887.97)^{2/}}{(21,980)} \end{aligned}$$

The amount of the employee's liability for shipping the automobile should then be subtracted from the overall charge of \$9,661.64 to determine the total charge to which the excess weight procedures of FTR para. 2-8.3b(5) apply. In applying those procedures, the weight of the automobile should be subtracted from the overall weight of 21,980 pounds to determine the total weight of the shipment of household goods, as well as the excess weight, to which the formula applies.

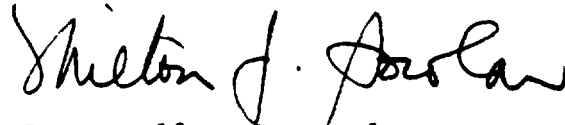
Under FTR para. 2-8.3b(5), the employee's liability for packing charges may not be separately determined and there is no authority to apportion packing charges to the excess weight of household goods as reduced by the weight of goods packed other than by the shipper. That regulation provides that the employee's liability for the excess weight must be based on the "ratio of excess weight to the total weight of the shipment" multiplied by the total charges. The 3,500 pounds or more of household goods which did not require packing comprised a portion of the "total weight of the

^{2/} The figure of \$6,887.97 is equal to the \$9,661.64 amount billed by the carrier minus the sum of all non-reimbursable charges and all charges, such as packing, allocable specifically to the household goods.

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shipment" and may not be deducted when applying the formula. This is so regardless of whether the goods were packed by the employee, at his expense, or otherwise as the result of a prior move. We have held that the formula applies to the total weight shipped even though the employee packs a portion of the household goods transported under a Government bill of lading. See Alex Kale, 55 Comp. Gen. 779 (1976); William L. Brown and William A. Schmidt, Jr., B-199780, February 17, 1981; Deane H. Zeller, B-205873, May 4, 1982. Paragraph 2-8.3b(5) has the force and effect of law and may not be waived or modified regardless of extenuating circumstances. William A. Schmidt, Jr., 61 Comp. Gen. 341 (1982).

The employing agency should recompute Mr. Knapp's debt for the shipment of this automobile and excess household goods in accordance with the above discussion.



Acting Comptroller General
of the United States